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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/825,530

04/14/2004

Richard L. Rowe

SFV 305

8386

23581

7590

06/28/2006

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EXAMINER

BARKER, MATTHEW M

ART UNIT

PAPER NUMBER

3662

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/825,530	Applicant(s) ROWE ET AL.	
	Examiner Matthew M. Barker	Art Unit 3662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/14/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1 and 26 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 10 of copending Application No. 10/825442. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of 10/825442 includes all the limitations of present claim 1, where the previously claimed “second sensor apparatus” is an example of a specific “source of subject information”. Claim 10 of 10/825442 includes all the limitations of present claim 26; while claim 10 does not explicitly claim storing subject information, storing subject information is inherent to the

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method of claim 10 because the information is required in "producing, from the image signal and the detected characteristic, image data".

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 16-17 and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 16 and 40 recite the limitation "the first object information" in line 3.

There is insufficient antecedent basis for this limitation in the claims. The claims have been examined as being dependent on claims 3 and 28, which introduce the "first object information".

Due to the above interpretation, claim 17 in turn lacks antecedent basis for "the second moving mechanism". Therefore no meaningful conclusion can be made on the patentability of claim 17.

Claim Rejections - 35 USC § 102

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-12, 16, 18, 26-36, and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Collins et al. (5,455,590).

Regarding claims 1 and 26, Collins discloses the claimed system (Figure 5) and method, including the claimed first sensor apparatus (530) (column 10, lines 29-31) transmitting toward and receiving from a subject (501) electromagnetic radiation in the range of about 100 MHz to about 2 THz, the sensor apparatus producing a first image signal representative of a first image of at least a portion of the subject (column 10, lines 37-43); a source of subject information (520) about the subject that is relatable to objects potentially carried by the person, the source being of a different type from the first sensor apparatus; and a controller (560) adapted to control operation of the first sensor apparatus, and to produce relational information relating the produced image signal and the subject information (column 10, lines 22-43). The subject information is inherently stored for display.

Regarding claims 2 and 27, Collins discloses that the sensor apparatus and controller are adapted to produce image data corresponding to a three-dimensional holographic first image of at least a portion of the subject (column 8, line 29- column 9, line 11).

Regarding claims 3 and 28, Collins discloses that the source of information is a second sensor apparatus (520) adapted to visually detect first object information about an object potentially carried by the person, and the controller is adapted to produce the claimed object data (column 10, lines 37-43, Figure 2A).

Regarding claims 4 and 29, a body part such as the subject's head is a given chemical substance.

Regarding claims 5 and 30, Collins discloses the claimed producing of first object-image data (Figures 4(c)-4(d)). The side-by-side display of both images is considered as relating the object data to the object image-data (Figure 7).

Regarding claims 6 and 31, Collins discloses that the second source is a second sensor apparatus (520), adapted to detect second radiation transmitted from the subject (501), and to produce a second image signal representative of received second radiation (column 10, lines 40-43), and the controller is further adapted to produce first and second image data, and to produce relational information relating the first and second image data. The side-by-side display of both images is considered as producing relational information (Figure 7).

Regarding claims 7 and 32, the claim is considered met by Collins who discloses the claimed producing of first object-image data (Figures 4(c)-4(d)), and the claimed second object-image data in the case where the objects are visible to the cameras (520). The side-by-side display of both images is considered as producing relational information (Figure 7).

Regarding claims 8 and 33, the claim is considered met by Collins who discloses a side-by-side display of the holographic image and video image of the same subject, thereby producing relational information identifying portions of the subject for which objects are identified from the first and second object-image data.

Regarding claims 9 and 34, the picture elements of Collins' images of objects as discussed above regarding claims 8 and 33 themselves are considered relative values/indicators.

Regarding claims 10-11 and 35, the second sensor apparatus of Collins detects the visible (optical) range of frequencies.

Regarding claims 12 and 36, Collins discloses that the second sensor apparatus (520) is adapted to detect subject information for different associated areas of the person, as the cameras view multiple portions of the subject (501); and the controller is adapted to produce the claimed first object-image data (column 10, lines 40-43), and the claimed relational information. The side-by-side display of both images is considered as producing relational information (Figure 7).

Regarding claim 16, Collins discloses the claimed third sensor apparatus (a second camera, 520), which detects second object information different than the first object information (such as imaging a different part of the body). The camera does not transmit and receive electromagnetic radiation in the range of about 100 MHz to about 2 THz.

Regarding claims 18 and 41, Collins discloses that the source includes a second sensor apparatus (520) adapted to detect a feature identifying a person (i.e. a video representation of the person).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 13-15 and 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins et al.

Regarding claims 13 and 37, Collins discloses a first moving mechanism adapted to move the first sensor relative to the second sensor (column 15, lines 38-41). Collins does not explicitly disclose that the second sensor apparatus (520) is also moved by the moving mechanism; however it is well known to move surveillance cameras relative to a subject position, and it would have been obvious to modify Collins to include the claimed mechanism so video images could be taken of the entire subject.

Regarding claims 14 and 38, Collins does not explicitly disclose that the second sensor apparatus (520) includes a second moving mechanism to move the second sensor apparatus relative to the subject position and first sensor; however it is well known to move surveillance cameras relative to a subject position, and it would have

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been obvious to modify Collins to include the claimed mechanism so video images could be taken of the entire subject and match up in real-time with the images produced from the first sensor apparatus so the operator may easily identify where on the person an object exists.

Regarding claims 15 and 39, Collins discloses the claimed producing of object-image data (Figures 4(c)-4(d)). The controller (560) would be the expected means for controlling second moving mechanism of Collins as modified above regarding claim 14. Collins as modified moves the second sensor apparatus relative to the subject position regardless of if the object-image data is indicative of portions of the image that include image characteristics or not.

Regarding claim 40, Collins discloses the claimed third sensor apparatus (a second camera, 520), which detects second object information different than the first object information (such as imaging a different part of the body). As discussed above regarding claim 39, the sensor apparatus of Collins as modified move regardless of object detection in order to match the image from the first sensor apparatus with that of the cameras.

9. Claims 19-25 and 42-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins as applied to claim 1 above, and further in view of Keller (2004/0263379).

Regarding claims 19, 21-24, 42, and 44-47, Collins discloses a sensor apparatus (520) adapted to detect a feature identifying the person, however Collins fails to

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disclose context information relating the feature with a policy regarding concealed objects potentially carried by each person with the identifying feature.

Keller discloses a related imaging system including storing the claimed context information and associated sensor (paragraph 0074, lines 15-31). It would have been obvious to modify Collins to include as part of the source of subject information, a biometric sensor and to relate the biometric identifying information with a policy regarding concealed objects as taught by Keller in order to eliminate alarms for those authorized to carry the particular object.

Regarding claims 20 and 43, it is inherent to the system of claim 19 as modified above that the controller assign a relative value to each object identified based on the context information, in order to determine if an alarm should be set off.

Regarding claims 25 and 48, badges and RFID devices are well known for use at security checkpoints, and it would have been obvious to use them in the system of claim 23 in place of biometrics in order to reduce system cost.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited art relates to various imaging systems.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew M. Barker whose telephone number is (571)272-3103. The examiner can normally be reached on M-F, 8:30 AM-5:00 PM.

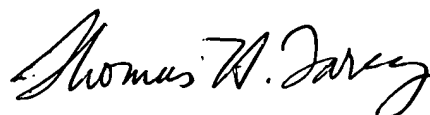
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on (571)272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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